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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA NO.1299/88

DATE OF DECISION: 7.10.93.

SHRI OM PARKASH MALHOTRA

...APPLICANT

VERSUS

UNION OF INDIA & OTHERS

...RESPONDENTS

CORAM:- *THE HON'BLE MR. J.P. SHARMA, MEMBER (J)*
THE HON'BLE MR. B.K. SINGH, MEMBER (A)

FOR THE APPLICANT SHRI B.S. MAINEE, COUNSEL.

FOR THE RESPONDENTS SHRI B.K. AGGARWAL, COUNSEL.

JUDGEMENT (ORAL)
(HON'BLE MR. J.P. SHARMA)

The applicant is a P.W.I. Construction, Northern Railway, Shakur Basti and is aggrieved by the order dated 19.1.1987 passed by the Divisional Personnel Officer, Northern Railway (Annexure-A-1). This impugned order relates to the subject of promotion of PWI Grade-III having lien on Delhi Division and working on construction organisation. This order lays down that "Shri Kishan Singh, PWI grade III Bhiwani, who is junior to Shri R.C. Saini and Shri Biri Singh has been promoted in grade II (1600-2660) vide this office notice of even No. dated 15.1.88." The grievance of the applicant is that he has always been senior to Shri Biri Singh, respondent No.4 as PW Mistri and the applicant was promoted PWI grade III earlier to Shri Biri Singh. He had also passed the zonal course of PWI from the Zonal Training School, Ghaziabad earlier than respondent No.4. Shri Biri Singh has been regularised by the letter dated 19.1.1988 as PWI grade II but no order of regularisation has been issued in favour of the applicant.

2. The applicant prays for grant of relief that the impugned order dated June 19, 1988 be quashed, directing the respondents to recognise the applicant as PWI grade II in accordance with the proper seniority. It is further prayed that the seniority list issued on March 7, 1987 (Annexure A-15) be quashed and the applicant be assigned the proper seniority below serial No.90 of the seniority list. The applicant may be further considered for promotion to the next higher grade on the basis of revised seniority list.

3. A notice was issued to the respondents. Respondent No.4 Shri Biri Singh has also filed a reply, opposing the grant of the relief to the applicant taking the plea or limitation that the applicant has not filed the present application within time, as laid down under Section 21 of the Administrative Tribunals Act, 1985. The name of the applicant in the seniority list is at serial No.128 and the applicant has not made other intervening persons from serial No.90 to 127 as respondents, the applicant claims interpolation of his name below serial No.90 and above serial No.91 of the said seniority list. It is said that the seniority list of March, 1987 was a provisional seniority list. It is further stated that the answering respondent is senior to the applicant, as the applicant joined as a Gangman in October, 1964 while the answering respondent joined in March, 1960. Thus, according to respondent No.4 the application has no merit. Alongwith the reply, respondent No.4 has also filed an order dated June 16,

1986 under the signature of Divisional Personnel Officer which goes to show that respondent No.4 Shri Biri Singh P.W.I passed the supplementary examination P-II held in ZTS Chandausi on 4.6.85 and was declared passed vide Principle ZTS Chandausi letter dated 17.6.85. Further it is mentioned in the letter that Shri Biri Singh, PWI has been assigned seniority as PWI grade Rs.425-700 (RS) below all the PWIs who attended and passed the P-II course and accordingly his name is placed at item No.30-A of the provisional seniority list i.e. above the name of Shri Jyoti Parshad PWI, Jhansi and below the name of C.S. Saini PWI, Delhi.

4. The official respondents in their reply have only made ceremonial admission and denial and in paragraph 6.27 stated that the applicant has been given his due seniority in accordance with the merit position he obtained in the written test for PWI after deletion of the name of Shri Biri Singh from the seniority list. The applicant, therefore, is in no way junior to Shri Biri Singh, respondent No.4, as alleged. It is further stated that in view of the orders passed by the Divisional Railway Manager dated November 17, 1988 the name of Shri Biri Singh existing against the item No.114 of seniority list of PWI grade III was cancelled as he was empanelled as PWI and never passed the selection of PWI Grade-III. Shri O.P. Malhotra, PWI (Construction) has correctly been assigned seniority in accordance with his merit in the selection. The respondents have also annexed as

Annexure-R-2 the letter of the Northern Railway (Headquarters) dated March 22, 1979 showing the selection for the post of PWIs Grade III, in which the name of the applicant appears at serial No.29.

5. We have heard Shri B.S. Mainee, learned counsel for the applicant at length and in view of the averment made in paragraph-6.27 by the official respondents as well as in paragraph-9 of the counter-affidavit filed by the respondents, the relief claimed by the applicant has almost been granted by the respondents themselves. The relief claimed by the applicant was for fixation of his seniority above Shri Biri Singh, respondent No.4 and his regularisation in the grade of PWI Grade-II. The same has since been done. The applicant, in view of this fact shall also be entitled for his consideration for higher post on the basis of revised seniority in his own turn.

6. In view of the above facts and circumstances the application is partly allowed.

7. With the above observations that the relief claimed by the applicant has already been granted to him and the respondents shall consider him on the basis of revised position in the seniority list of March, 1987 and give him higher promotion when due to him in his turn, we dispose of this application accordingly. Costs on parties.



(B.K. SINGH)
MEMBER(A)



(J.P. SHARMA) 7.10.93
MEMBER(J)